

Section by Section Summary of the Provisions

HB 549

Monday, March 12, 2007

Section	Provision
1	Declarations and Purposes Provides that the legislation serves a public purpose, and encourages involvement of private enterprise in development areas
2	Purposes of the Act Outlines the three types of TIF programs established by the legislation <ul style="list-style-type: none"> Local only TIF for previously undeveloped land (Section 4) Local TIF for redevelopment – may apply for state participation (Sections 5 – 7) State participation TIFs which includes 3 components – Property tax only, the Signature Program, and a program for the redevelopment of blighted urban areas involving most state taxes (Sections 16 through 21)
3	Definitions
4	Local Development Areas – No State Participation <ul style="list-style-type: none"> Allows any city or county to establish a local development area for previously undeveloped tracts of land Limited to no more than 1,000 acres in each 12 month period The total amount that can be designated as a local development area or a development area (established under Sections 5-7) within a city or county cannot exceed 20% of the assessed value of all taxable real property within the jurisdiction of the city or county, measured at the time the property is included in the development area Requires a public hearing, an ordinance and a local development area agreement. State participation is not available under this type of development area
5	Development Areas – Conditions for Establishment Allows any city or county to establish a development area with the following conditions: <ul style="list-style-type: none"> The area must be contiguous and cannot exceed 3 square miles The total amount that can be designated as a local development area (established under Section 4) or a development area within a city or county cannot exceed 20% of the assessed value of all taxable real property within the jurisdiction of the city or county, measured at the time the property is included The area must meet 2 or more of 7 listed conditions relating to deterioration and blight. The local government must find that the development would not occur without public investment, that the benefits outweigh the public costs of the project, and that the area immediately surrounding the development area has not been developed, or if it has, why the development area needs public investment to be developed.
6	Development Areas – Requirement for a Development Plan <ul style="list-style-type: none"> Requires the adoption of a development plan for the development area that includes specifically identified provisions Requires a public hearing on the development plan
7	Development Areas – Requirement for an Ordinance Requires the adoption of an ordinance establishing the development area and making other required findings and approvals
8	Development Areas – Amendments, Changes, and Revisions Establishes the process that must be followed to amend, change or revise a development area or development plan

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9	Authorized Local Funding <ul style="list-style-type: none"> • Authorizes the pledge of incremental local tax revenues (from ad valorem real property taxes and occupational taxes) to support development areas or local development areas • Authorizes special assessments • Requires the execution of a local participation agreement for the pledge of incremental revenues
10	Authorization for the Issuance of Increment Bonds <ul style="list-style-type: none"> • Allows increment bonds to be issued, regulated and administered by ordinance; • Sets forth guidelines for increment bonds
11	Sinking Fund Requirements <ul style="list-style-type: none"> • Requires that the city or county maintain a sinking fund if increment bonds are outstanding or if incremental revenues are pledged by another taxing authority to support a local development area or a development area. • Establishes conditions under which sinking fund monies may be expended
12	Local Participation Agreement Requirements Sets forth the requirements for a local participation agreement among local taxing districts
13	Service Payment Agreements Permits cities or issuers of bonds to enter into service payment agreements to guarantee payment on debt prior to increments being available.
14	Prohibition – Assessment Moratorium Programs Prohibits property in a development area from participation in a program granting property assessment or reassessment moratoriums pursuant to KRS 99.600
15	Establishes the State Tax Increment Financing Commission <ul style="list-style-type: none"> • The State Tax Increment Financing Commission is responsible for reviewing and approving all applications for state participation in a development area • Members include the Secretaries of Finance, Economic Development and Commerce, the State Budget Director, the chairperson of the KEDFA board, and the deans of the business schools at UK and U of L • No designees permitted
16	Commonwealth Participation Programs <ul style="list-style-type: none"> • Establishes requirements for cities and counties to apply for state participation in a development area • Provides for a preliminary review of applications by the Office of Tax Increment Financing • Establishes requirements for the report that must be prepared prior to a decision by the Commission to participate through the pledge of state taxes beyond property taxes
17	Establishment of the Commonwealth Participation Program for Real Property Ad Valorem Tax Revenues <ul style="list-style-type: none"> • The project must represent new economic activity in the Commonwealth • Minimum capital investment of \$10 million • Not more than 20% of the approved project costs or 20% of the finished square footage shall be devoted to retail • Up to 100% of the real property incremental tax revenue may be pledged from the footprint of the project • The amount pledged shall not exceed 100% of approved public infrastructure costs. • Amounts can be pledged for a maximum of 20 years

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18	<p>Establishment of the Signature Project Program</p> <p>Two Components:</p> <ul style="list-style-type: none"> • Projects with project grant agreements executed prior to 1/1/08: <ul style="list-style-type: none"> • Requires a minimum capital investment of \$200,000,000; • Must represent new economic activity in the Commonwealth; • Application of local development provisions apply except no development plan or public hearing is required and some provisions of ordinance requirements do not apply • No consultant's report required and no certification of net positive impact required • Must be approved by the Commission and monitored by the office • Taxes that may be pledged include real property ad valorem taxes, individual and corporate income taxes, the limited liability entity tax, and sales taxes • May recover up to 100% of approved public infrastructure costs less sales taxes paid, signature project costs less sales taxes paid, and financing costs related thereto • In cities of the 1st class, may use a portion of the local transient room tax • Up to 80% of incremental revenues may be pledged from the footprint of the project • Qualifies for sales tax refund on the purchase of construction materials that do not qualify as an approved public infrastructure cost or an approved signature project cost • Projects with project grant agreement executed on or after 1/1/08 <ul style="list-style-type: none"> • Requires a minimum capital investment of \$200,000,000 • Not more than 20% of the approved project costs or 20% of the finished square footage shall be devoted to retail • The project must result in a net positive economic impact to the Commonwealth, as certified by the consultant's report • Taxes that may be pledged include real property ad valorem taxes, individual and corporate income taxes, the limited liability entity tax, and sales taxes • Up to 80% of incremental revenues may be pledged from the footprint of the project • May recover up to 100% of approved public infrastructure costs less sales taxes paid, signature project costs less sales taxes paid, and financing costs related thereto • Qualifies for sales tax refund on the purchase of construction materials that do not qualify as an approved public infrastructure cost or an approved signature project cost
19	<p>Establishment of the Commonwealth Participation Program for Mixed Use Redevelopment in Blighted Urban Areas</p> <ul style="list-style-type: none"> • Defines mixed use as including at least two of the following: retail, residential, office, restaurant or hospitality – to qualify as a use, the use must comprise at least 20% of total finished square footage or 20% of total capital investment • To qualify a project must be located in an area with at least 3 of the blight/deterioration conditions listed in Section 3, be a mixed use project, represent new economic activity in the Commonwealth, result in a minimum capital investment of at least \$20 million but not over \$200 million, and result in a net positive impact to the Commonwealth • May recover up to 100% of approved public infrastructure costs, and costs related to land preparation, demolition and clearance
20	<p>Project Grant Agreement</p> <p>Establishes required terms and conditions for a project grant agreement memorializing the agreement between the Commonwealth and the city, county or agency requesting state participation</p>

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21	Monitoring and Oversight of Project Grant Agreements <ul style="list-style-type: none"> Requires the office to certify the minimum capital investment prior to any incremental revenues being released by the Commonwealth and requires any increments earned prior to certification of the minimum capital investment to be placed in escrow until minimum capital investment is certified Requires the office to monitor project grant agreements and verify expenses Requires the office to track incremental revenues released Requires the office to provide quarterly reports to the commission
22	Payment of Pledged Increments Establishes the process for the payment of pledged increments to the city, county or agency administering the development area
23	Limitation on Pilot TIF Program Limits the applicability of the existing pilot TIF statutes to development areas established prior to the effective date of the Act that have agreements executed prior to the effective date of the Act.
24	Limitation on other TIF Programs Limits the applicability of the existing TIF statutes to development areas established prior to the effective date of the Act that have agreements executed prior to the effective date of the Act
25	Amends KRS 132.012 to Include property in development areas in the definition of abandoned urban property.
26	Amends KRS 131.020 to establish the Division of Tax Increment Financing within the Office of the Commissioner of the Department of Revenue.
27	Amend KRS 91A.390 to conform
28	Sales tax exemption – Provide a sales tax exemption for construction materials purchased to construct a project meeting the requirements established by Section 18 of the Act that are used in the portion of the project not included in the project grant agreement.
29	Emergency Clause